

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

| | | |
|---|---|--------------------------|
| IN THE MATTER OF |) | DATE: September 25, 2003 |
| |) | |
| Yohannes Birre |) | DOCKET NO.: 03F-154 |
| Computer Systems Specialist for Program |) | |
| Operations |) | |
| Department of Health |) | |
| 6507 Rivington Road |) | |
| Springfield, Virginia 22152 |) | |

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Yohannes Birre, Computer Systems Specialist for Program Operations, Department of Health, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 11, 2003, OCF ordered Yohannes Birre (hereinafter respondent), to appear at a scheduled hearing on August 22, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On June 25, 2003, respondent filed an affidavit with OCF stating he did not receive notice from OCF in a timely manner. Respondent explained that his mail (i.e., Financial Disclosure Statement form) was misdirected to another employee in his agency with a similar last name. Respondent further asserts he met with the other employee who informed respondent that he was in possession of respondent's mail. In the interim,

IN THE MATTER OF: Yohannes Birre
Page 2

respondent stated he received another notice to file from OCF, to which he responded timely. Respondent filed the required Financial Disclosure Statement on June 25, 2003.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent timely filed Financial Disclosure Statements with OCF in 2002 and 2001.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
3. Respondent filed the required Financial Disclosure Statement on June 25, 2003.
4. Respondent has no history of prior filing delinquencies.
5. Respondent's explanation for the 3-day filing delinquency was credible in that he asserts his original FDS form was misdirected to another employee in his agency, and in view of his timely filing history.
6. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3 DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$150.00 for failing to timely file a Financial Disclosure Statement.

IN THE MATTER OF: Yohannes Birre
Page 3

4. For good cause shown pursuant to 3 DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failure to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine be hereby suspended in this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.